

IN RE: DEVELOPMENT PLAN HEARING
& PETITIONS FOR SPECIAL
HEARING AND VARIANCE
SW cor. Martin Blvd. & Compass Rd.
15th Election District
5th Councilmanic District
Project: CVS Pharmacy
Blackford Development Ltd., Developer

* BEFORE THE
* HEARING OFFICER
* OF BALTIMORE COUNTY
* Case No. XV-728 & 99-305-SPHA

* * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter, again, comes before the Zoning Commissioner/Hearing Officer for a public hearing, for consideration of the development plan prepared by George W. Stephens, Jr., Associates, Inc., (Civil Engineers, Land Surveyors and Land Planners) and for zoning relief, pursuant to Petitions for Special Hearing and Variance. The development plan and the zoning relief are for the property located adjacent to the intersection of Martin Boulevard and Compass Road in eastern Baltimore County, known as 2 Compass Road. The zoning relief requested is for the approval of (A) An amendment to the previously approved plan in zoning case No. 98-389-SPHA to allow an outside speaker system, and (B) A variance, as is necessary, from Section 409.10 of the Baltimore County Zoning Regulations (BCZR) to permit two stacking spaces in lieu of the required five spaces. The red lined development plan/plat to accompany the Petition for Special Hearing and Variance were received as Petitioner's Exhibit No. 1.

Appearing at the public hearing held for this case on behalf of the Developer/Petitioner were Joseph Deerin and Donna Deerin. Also present was Tom Woolfolk, of G.W. Stephens, Jr., and Associates, Inc., Daniel Farber, a noise/acoustics expert, and Wes Guckert, a traffic engineer. The Developer/Petitioner was represented by Leslie M. Pittler, Esquire. Appearing as interested persons and/or in opposition to the request were Ellen Kern, Vivian R. Nawrocki, Betty B. King and D.E. Hart. Also present at the hearing were representatives of the County agencies which reviewed the project, including Lyn Lanham from the Office of Planning, R. Bruce Seeley from the Office of Environmental Protection and Resource Management (DEPRM), Bob Bowling from the Developer's Plan Review Division, and Stephany Wright from Land Acquisition, of the Office Permits and Development

ORDER RECEIVED FOR FILING

Date

By

4/1/99
[Signature]

Management (PDM).

The proposal and subject property at issue was the subject of the recent zoning case No. 98-384-SPHA. In that case, the matter came before me for consideration of a Petition for Special Hearing and Variance. Generally, the Petitions sought approval of the development of the subject property with a CVS Pharmacy. A series of variances and special hearing relief were necessary to accommodate the proposal. By Order of July 22, 1998, I granted the Petitions for Special Hearing and Variance with certain modifications and restrictions. The terms, conditions and provisions of that Order are expressly incorporated herein. A Motion for Reconsideration was filed by the property owners (Blackford Development Ltd) and Contract Purchaser (Goldentree Development, Inc.) seeking an amendment to that Order. The Motion for Reconsideration was granted, as set forth in a two page opinion by me on August 31, 1998. The record of the case indicates that no appeal was taken from either the Order granting the Motion for Reconsideration or the original Order approving the Petitions for Special Hearing and Variance.

As a condition attached to the original Order approval, I directed the Applicant to submit the project to the County's Development Process as codified in Title 26 of the Baltimore County Code. That is, I ordered that the Developer submit a development plan for approval through the process and regulations contained therein. In accordance therewith, the Developer thereafter submitted a Concept Plan on November 23, 1998 and conducted a Community Input Meeting as required on December 16, 1998 at the Victory Villa Community Center. Subsequently, the development plan was submitted and a conference was held thereon on February 24, 1999. The Hearing Officer's hearing was thereafter scheduled and conducted on March 18, 1999. As noted above, at issue is not only the development plan, but testimony and evidence was also received on Petitions for Special Hearing and Variance. A single public hearing for these combined requests is expressly permitted pursuant to Section 26-206.1 of the Baltimore County Code.

Turning first to the development plan (Developer's Exhibit No. 1), the red lined plan was received in open hearing and examined by all those present. Mr. Pittler, on behalf of his

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4/11/99
[Signature]

client, testified that the plan met all County agency requirements and that there were no open issues or unresolved comments. Thus, from the Developer's perspective, the plan should be approved. This representation was corroborated by County agency representatives who appeared. Mr. Bowling on behalf of Developer's Plans Review and Ms. Lanham from the Office of Planning both indicated that there were no open issues and that the plan met all of their respective agency comments. Mr. Seeley from DEPRM and Ms. Wright from the Land Acquisition Bureau, likewise, indicated that the plan complied with all of their respective department's requirements. Indeed, even the Protestants present did not identify any issue specifically related to the development plan.

Section 26-206 of the Code directs the Hearing Officer to approve a development plan when there are no open issues or unresolved comments. The language is mandatory and requires the approval of the plan in those circumstances. Based upon this language and the fact that no open issues or comments were identified at the hearing, the red lined development plan will, therefore, be approved.

As to the zoning relief, consideration is first given to an amendment to the previously approved plan to permit an outside speaker. As shown on the new plan, an outside speaker will be installed at the drive-in window which has been proposed. Testimony was offered at the hearing that the drive-in window is a significant part of the overall customer service scheme offered at this CVS location. Moreover, uncontradicted testimony was offered by Mr. Farber of Environmental Acoustics, Inc. regarding the proposed speaker system. He described in some detail the expected level of noise to be generated (70 decibels at 3 ft.) by the speaker system and compared that level to the noise generated by a radio played at a moderate volume. More importantly, he testified that at the property line (150 ft. away) the volume would be reduced by approximately 39 decibels. This reduction would be due to the dispersal of the noise caused by distance and also the redirecting or buffering of sound by traffic on the site. He concluded that a noise level of 31 decibels would exist at the property line. The level is below the typical background noise measurement of 45 decibels. Thus, he concluded that the noise levels would be of no adverse impact on surrounding properties.

The second part of the zoning relief request is from Section 409.10 of the BCZR. That section generally regulates the amount of stacking spaces which are required for drive-thru uses. The section lists among such uses as banks, carwashes, restaurants, etc. It requires a specific number of spaces for each use. A pharmacy does not appear among the enumerated uses. However, Section 409.10(a) provides that for such uses specifically named, the Zoning Commissioner shall determine the amount of parking spaces required.

Testimony was offered on this point by Mr. Guckert. He described the proposed parking and traffic circulation patterns in detail. He also noted that typically the drive-thru window would only be used at any one time by a single vehicle. He indicated that the drive-thru window would most often be used by individuals coming to pick up prescriptions. He classified the drive-thru window as an extremely low traffic generating use which would not generate stacking. Moreover, he indicated that the plan shows two stacking spaces will be provided and, in his judgment, will be sufficient.

Based on the testimony and evidence offered, I am persuaded to grant the Petitions for Variance and Special Hearing. I am convinced by the expert testimony offered in this case. The noise levels caused by the outdoor speaker system appear to be very minimal and should not adversely impact any neighboring property. Moreover, it appears that low volumes of traffic at the drive-thru window are anticipated. The traffic flow patterns, which are shown on the plan, will prevent an overflow of traffic into public streets or adversely affect neighboring properties. There was substantial testimony on the traffic pattern and the design of the access points from/to Compass Road. I am persuaded that the plan is well thought out in this respect and that there will not be an adverse impact.

Pursuant to the advertisement, posting of the property and the public hearing on this development plan held, and for the reasons given above, the relief requested shall be approved.

THEREFORE, IT IS ORDERED by the Hearing Officer/Zoning Commissioner for Baltimore County this 15th day of April 1999 that the development plan submitted in the within case as Developer's Exhibit No. 1, be and is hereby APPROVED; and,

4/11/99
M. Shorak


IT IS FURTHER ORDERED that approval to amend the previously approved plan in zoning case No. 98-389-SPHA to allow an outside speaker system, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 409.10 of the Baltimore County Zoning Regulations (BCZR) to permit two stacking spaces in lieu of the required five spaces, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the property shall be developed in accordance with the Red Lined Development Plan (Petitioner's Exhibit No. 1), and shall be in accordance with the terms, conditions and restrictions set out in the Order in zoning case No. 98-389-SPHA, except as expressly modified herein .

IT IS FURTHER ORDERED that the Developer shall prepare and submit to Permits and Development Management (PDM), within 10 days from the date of this Order, a development plan which reflects and incorporates the terms, conditions and restrictions of this opinion and Order and/or the development plan comments, as set out herein above.

Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.


LAWRENCE E. SCHMIDT
ZONING COMMISSIONER
FOR BALTIMORE COUNTY

LES:mmn

ORDER RECEIVED FOR FILING
Date 4/11/99
By M. Noah



Petition for Special Hearing AND VARIANCE to the Zoning Commissioner of Baltimore County

for the property located at

Martin Boulevard and Compass Road

which is presently zoned

BL, RO

This Petition shall be filed with the Department of Permits & Development Management

DR 10.5

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

- A: An amendment to the previously approved plan - Zoning Case # 98-384-SPHA
by the Zoning Commissioner TO PERMIT AN OUTSIDE SPEAKER SYSTEM.
- B: Variances pertaining to BLZR 409.10, TO PERMIT 2 ^{STACKING} SPACES IN
LIEU OF THE REQUIRED 5 SPACES

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Legal Owner(s):

Richard Welkowitz/Blackford Development LTD
(Type or Print Name)

(Type or Print Name)

Signature

Signature

1891 Santa Barbara Dr - #202

Address

(Type or Print Name)

Lancaster PA 17601

City

State

Zipcode

Signature

Attorney for Petitioner:

Address

Phone No.

Leslie M. Pittler

(Type or Print Name)

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Signature

Name

29 W. Susquehanna Ave. (410)832-4455

Address

Phone No.

Address

Phone No.

Towson

MD

21204

City

State

Zipcode

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL OTHER

REVIEWED BY: gcm

DATE

2.8.99

305



Revised 9/5/95

99-305-SPHA

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR., & ASSOCIATES, INC.
ENGINEERS
658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

CVS/pharmacy

Description to Accompany Zoning Petition

March 13, 1998

DESCRIPTION OF PROPERTY ON COMPASS ROAD AND MARTIN BOULEVARD AND FUSELAGE AVENUE.

Beginning at a point on the southern right-of-way line martin boulevard, as shown hereon.
Thence leaving said point of beginning, and running the following courses:

1. By a curve to the left, having a Radius of 5804.60' and an Arc Length of 170.00'
2. By a curve to the right, having a Radius of 15.00' and an Arc Length of 20.81'
3. Thence leaving Martin Boulevard and running along the west side of Compass Road,
S 26° 58' 30" W, 241.21'
4. S 26° 57' 00" W, 81.95', and
5. By a curve to the right, having a Radius of 15.00' and an Arc Length of 26.31' to the
northern side of Fuselage Avenue
6. thence running along the northern side of Fuselage Avenue, by a curve to the right, having
a Radius of 6154.58' and an Arc Length of 106.10'
7. thence leaving Fuselage Avenue and running N 36° 08' 55" E, 99.97'
8. N 26° 58' 30" E, 123.00'
9. N 00° 07' 10" E, 160.75' to the Place of Beginning.

Containing 0.99 ACRES of land, more or less.

**NOTE: The above description is for zoning purposes only and is not to be used
for any conveyances or agreements.**





THE BALTIMORE SUN
BALTIMORE, MARYLAND 21278-0001

WE HEREBY CERTIFY, that the annexed advertisement of

was published in "THE BALTIMORE SUN" a daily newspaper printed
and published in the City of Baltimore. 2/26/99

The Baltimore Sun Company.

By

7122

NOTICE OF ZONING HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland herein as follows: **CASE NUMBER: 99-305-SFHA**
2 Compass Road
SWC Martin Boulevard
and
Compass Road
15th Election District — 5th
Councilmanic District
Legal Owner: Goldentree Development, Inc. & Marvin J. & Elma K. Rombro & Ruth-erford R. and Johanna Dawson

Special Hearing to approve an amendment to the previously approved plan in zoning case #98-384-SPHA to permit an outside speaker system. Variance to permit 2 stacking spaces in lieu of the required 5 spaces.

HEARING: Thursday, March 18, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bayley Avenue.

LAWRENCE E. SCHMIDT,
Zoning Commissioner
For Baltimore County.

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION
CONCERNING THE FILE
AND/OR HEARING,
CONTACT THE ZONING
REVIEW OFFICE AT
410-887-3391.

CERTIFICATE OF POSTING

RE: CASE # 99-305-SPHA
PETITIONER/DEVELOPER:
(Blackford Develop. LTD)
DATE OF Hearing
(Mar 18, 1999)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Ave.
Towson, Maryland 21204

ATTENTION : MS. GWENDOLYN STEPHENS

LADIES AND GENTLEMEN:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property located at
2 Compass Road Baltimore, Maryland 21220_____

The sign(s) were posted on_____ 3-1-99 _____
(Month, Day, Year)

Sincerely,

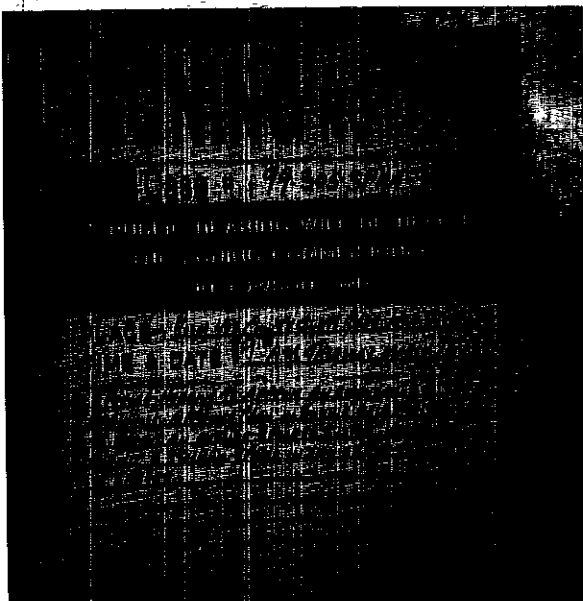

(Signature of Sign Poster & Date)

Thomas P. Ogle, Sr. _____

325 Nicholson Road _____

Baltimore, Maryland 21221 _____

(410)-687-8405 _____
(Telephone Number)





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

February 22, 1999

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

HEARING OFFICERS HEARING

Project Name: CVS Pharmacy – Compass Road

Project Number: 15-728

Location: SWC Compass Road and Martin Boulevard

Acres: .99

Developer: CCM

Engineer: G.W. Stephens, Jr. & Assoc., Inc.

Proposal: 8,625 SF Pharmacy

*****AND*****

CASE NUMBER: 99-305-SPHA

2 Compass Road

SWC Martin Boulevard and Compass Road

15th Election District – 5th Councilmanic District

Legal Owner: Goldentree Development, Inc. & Marvin J. and Elma K. Rombro &
Rutherford R. and Johanna Dawson

Special Hearing to approve an amendment to the previously approved plan in zoning case #98-384-SPHA to permit an outside speaker system. Variance to permit 2 stacking spaces in lieu of the required 5 spaces.

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

HEARING OFFICERS HEARING
Project Number 15-728
ZONING HEARING
Case Number 99-305-SPHA
Page 2

HEARING: Thursday, March 18, 1999 at 9:00 a.m. in Room 407, County Courts
Building, 401 Bosley Avenue



Arnold Jablon
Director

c: Leslie M. Pittler, Esquire
Petitioners, c/o Attorney
Blackford Development Ltd.

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MARCH 3, 1999.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 305
Petitioner: BLACKFORD DEVELOPMENT, CORP.
Address or Location: 1891 SANTA BARBARA DR. #202 LANCASTER, Pa. 17601

PLEASE FORWARD ADVERTISING BILL TO:

Name: L. PITTLER, ESQ.
Address: 29 W. SUSQUEHANNA AVE.
TOWSON, MD 21204
Telephone Number: (410) 832-4455

Revised 2/20/98 - SCJ

49-305-SPHA

Request for Zoning: Variance, Special Exception, or Special Hearing

Date to be Posted: Anytime before but no later than _____.

Format for Sign Printing, Black Letters on White Background:

ZONING NOTICE

Case No.: 99-305SPH A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: _____

DATE AND TIME: _____

REQUEST: A VARIANCE TO PERMIT 2 STACKING SPACES IN LIEU OF
THE REQUIRED 5 SPACES AND A SPECIAL HEARING TO
AMEND CASE 98-384 SPHA TO ~~NO~~ PERMIT THE REFERENCED
STACKING AND AN OUTSIDE SPEAKER SYSTEM.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391.

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

March 12, 1999

Leslie M. Pittler, Esq.
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No.: 99-305-SPH
Petitioner: Blackford Development
Location: Martin Blvd. & Compass Rd

Dear Mr. Pittler:

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on February 8, 1999.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards Jr.
W. Carl Richards, Jr.
Zoning Supervisor
Zoning Review

WCR:ggs

Enclosures



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development Management

DATE: -----

FROM: R. Bruce Seeley, Project Manager
Development Coordination
DEPRM

SUBJECT: Zoning Advisory Committee

Distribution Meeting Date: 2/22/99

The Department of Environmental Protection and Resource Management has
no comments for the following Zoning Advisory Committee Items:

Item #'s:

305

306

308

310

311

312


313

B A L T I M O R E C O U N T Y , M A R Y L A N D

I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director
 Department of Permits & Development
 Management

Date: March 19, 1999

FROM:  Robert W. Bowling, Supervisor
 Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
 for February 29, 1999
 Item Nos. 305, 306, 307, 308, 309,
 310, 312, and 313

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comment.

RWB:HJO:jrb

cc: File



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 2 . 19 . 99

Ms. Gwen Stephens
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 305

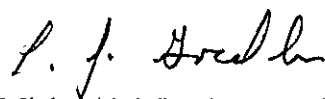
JCM

Dear Ms Stephens:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for 
Michael M. Lenhart, Acting Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

March 31, 1999

Leslie M. Pittler, Esquire
29 W. Susquehanna Avenue, Suite 610
Towson, Maryland 21204

RE: Hearing Officer's Hearing and Development Plan Order and Petitions
For Special Hearing and Variance
Case Nos. XV-728 and 99-305-SPHA
CVS Pharmacy
SW corner of Martin Blvd. And Compass Road (2 Compass Road)

Dear Mr. Pittler:

Enclosed please find the decision rendered in the above captioned case. The development plan and Petitions for Special Hearing and Variance have been approved, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the County Board of Appeals. If you require additional information concerning filing an Appeal, please feel free to contact our Appeals Clerk at AC-410-887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

Encl.

Copy:

Ms. Ellen Kern, 28 Box Circle, Baltimore, Md. 21221

Ms. Vivian Nawrocki, 714 Fuselage Avenue, 21220

Ms. Betty B. King, 804 Fuselage Avenue, 21220

Mr. D.E. Hart, 21 Stagilizer Drive, 21220



NOTE TO FILE:

LEGAL OWNER WILL

(IN LIEU OF SIGNING PETITION FORM)

ATTEND HEARING^r. L. PITTNER, ESQ.
(APPLICANT) ADVISED HE SPOKE WITH ~~L. SCHMIDT~~
L. SCHMIDT AND LARRY WAS OK
WITH THIS.

305

Joe

QA-305-SPHA

LESLIE M. PITTLER

ATTORNEY-AT-LAW

SUITE 610

29 WEST SUSQUEHANNA AVENUE

TOWSON, MARYLAND 21204

(410) 823-4455

FACSIMILE
(410) 583-2437

February 5, 1999

Arnold Jablon, Director
Baltimore County
Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

**Re: CVS Pharmacy, Martin Boulevard and Compass Road
PDM. # 15-728**

Dear Mr. Jablon:

The above-captioned matter is set for a Hearing Officer's Hearing on the Development Plan on Thursday, MARCH 18, 1999, at 9:00 AM in Room 407 of the County Courts Building.

However, the Developer, now needs to seek an amendment to the previously approved plan as well as a variance to Section 409.10 of the BCZR. Although there have been two previous hearings before the Zoning Commissioner we now find it necessary to file for a Special Hearing which we would request to have heard in conjunction with the HOH on March 18, 1999.

I therefore request a merger of these two hearings.

Very truly yours,



Leslie M. Pittler

305

99-305-SPHA

LESLIE M. PITTLER

ATTORNEY-AT-LAW

SUITE 610
29 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(410) 823-4455

FACSIMILE
(410) 583-2437

MARCH 1, 1999

Mr. Arnold Jablon
Director
Department of Permits and Development Management
Baltimore County Office Building
Towson, Maryland 21204

Re: Certificate of Publication
Case Number 99-305-SPHA
Hearing Date March 18, 1999
Martin Blvd. And Compass Road

Dear Mr. Jablon:

Pursuant to your Department's request I have had the enclosed advertisement run in the Baltimore Sun prior to March 3rd. I am enclosing a copy of the Certificate of Publication from the Baltimore Sun for your files.

Very truly yours,

A handwritten signature in black ink, appearing to read "Leslie M. Pittler", written over a horizontal line.

Leslie M. Pittler

Baltimore County Government
Department of Permits and
Development Management



111 West Chesapeake Avenue
Towson, MD 21204

410-887-3321

January 28, 1999

CCM Associates
Suite 201
189 Santa Barbara Drive
Lancaster, PA 17601

Re: CVS Pharmacy, PDM #XV-728

Gentlemen:

The Development Plan Conference, and the Hearing Officer's Hearing, have been scheduled on the above referenced project. Please arrange to attend these meetings with appropriate representation.

DEVELOPMENT PLAN CONFERENCE:

Date: Wednesday, February 24, 1999

Time: 9:00 AM

Location: Development Management Conference Room 123

County Office Building; 111 W. Chesapeake Avenue; Towson, MD 21204

HEARING OFFICER'S HEARING:

Date: Thursday, March 18, 1999

Time: 9:00 AM

Location: Room 407, Courts Building; 401 Bosley Avenue; Towson, MD 21204

A copy of a public notification letter of the Development Plan Conference, and Hearing Officer's Hearing, is attached for your convenience. Please note that it is the developer's responsibility to send a copy of the development plan, and notify all interested parties of the conference and hearing.

Sincerely,

David C. Flowers/dak

David C. Flowers
Project Manager

DCF:dak

c: G. W. Stephens, Jr., & Associates, Inc.

MUST BE POSTED BY: 2/18/99

99-305-SPHA

LMS Commercial Real Estate

1891 Santa Barbara Drive ♦ Suite 201 ♦ Lancaster PA 17601
 phone: (717) 569-9373 ♦ 1-800-864-2633
 fax: (717) 560-9909

DEVELOPMENT PLAN CONFERENCE and HEARING OFFICER'S HEARING NOTIFICATION

NAME of DEVELOPMENT: CVS Pharmacy
 Location: Martin Blvd. & Compass Road, Baltimore, MD

Ms. Betty Skidmore
 32 Box Circle
 Baltimore, MD 21221

Dear Betty:

In anticipation of a public hearing on the above referenced project, I am enclosing a copy of the development plan we have filed with Baltimore County. The Hearing Officer's Hearing (and combined Zoning Hearing, if required), scheduled by the Department of Permits and Development Management of Baltimore County, is as follows:

Hearing Date: Thursday, March 18, 1999 Time: 9:00 A.M.
 Hearing Location: Room 407 of the Courts Building; 401 Bosley Avenue, Towson, MD 21204

As you are probably aware, the attached plan will receive a thorough review by appropriate agencies for compliance with applicable State and County regulations. Agency comments will be presented to the developer's representative at the Development Plan Conference to be held on Wednesday, February 24, 1999 at 9:00 A.M. in Room 123 of the County Office Building (COB) 111 West Chesapeake Avenue, Towson, MD 21204. The purpose of this conference is to ensure a coordinated review among agencies for the development plan proposal. You are invited to observe this exchange between county staff and the developer; however, the public hearing will provide the proper format for citizen comment.

Please accept this letter as written notification that agency comments, responses and recommendations as required by the County Code will be available in the official file in Room 123 of the COB, until five (5) days preceding the public hearing. At that time, the file will be forwarded to the Hearing Officer/Zoning Commissioner in preparation of the hearing.

Should you have any questions or concerns regarding this matter, you are encouraged to attend the public hearing. For further information, you may also contact the Department of Permits and Development Management at (410) 887-3335.

Respectfully yours,

LMS COMMERCIAL REAL ESTATE

Post-It® Fax Note	7871	Date	Page
To	Les Pittman	From	Rich Ozimek
Cp./Dept.		Co.	LMS
Phone #		Phone #	
Fax #		Fax #	

Rich Ozimek



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- X Mr. & Mrs. Michael J. Kern - Got
28 Box Circle
Baltimore, MD 21221
- X Ms. Betty Skidmore - Returned
32 Box Circle
Baltimore, MD 21221
- X Mr. & Mrs. Robert L. Wilson - Got
18 Box Circle
Baltimore, MD 21221
- X Ms. Betty B. King - Got
804 Fuselage Avenue
Baltimore, MD 21220
- X Mr. & Mrs. John Rooney - Got
24 Box Circle
Baltimore, MD 21221
- X Mr. Philip J. Sgori, Jr. - Got
26 Box Circle
Baltimore, MD 21221
- X Mr. James Anderson, Jr. - Got
30 Box Circle
Baltimore, MD 21221
- X Ms. Wanda J. Kod - Got
10 Left Aileron Drive
Baltimore, MD 21220
- X Ms. Sharon McDowell -
801 Fuselage Avenue
Baltimore, MD 21221
- X Mr. Duward Hart, President - Got
Victory Villa Improvement Association, Inc.
21 Stabilizer Drive
Baltimore, MD 21220
- X Ms. Jackie Nickel, President - Got
Essex Middle River Civic Council
721 Rockaway Beach Avenue
Baltimore, MD 21221
- X Mr. Norman Sines, President - Got
Essex Middle River Chamber of Commerce
431 Eastern Boulevard
Baltimore, MD 21221
- X Ms. Leigh Raley, President - Got
Windlass Run Improvement Association, Inc.
1102 Gladway Road
Baltimore, MD 21220

2-22-99

During a meeting with WCR, SCS + JCM, Les agreed to put the ad in the paper. It's too late to put in the Jeff. to keep the 3/18 hearing date. SCS gave Les the wording of the ad (which has to be placed before 3-3) + told him a certificate of publication had to be in the file before the hearing.

NOTE: There is no receipt in this file.

Sophia

99-305-SPHA

IN RE: PETITIONS FOR SPECIAL HEARING
AND VARIANCE - SW/Corner Martin
Boulevard and Compass Road
(Parcel D of Goldentree and
803 & 805 Fuselage Avenue)
15th Election District
6th Councilmanic District

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 98-384-SPHA

Goldentree Develop., Inc., et al *
Richard Welkowitz/Blackford Dev.
Petitioners/Contract Purchaser*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by Richard Welkowitz, on behalf of Blackford Development LTD, the Contract Purchaser, and by the owners of the subject and adjoining properties, Goldentree Development, Inc., Rutherford R. and Johanna Dawson, and Marvin J. and Elma K. Rombro, through their attorney, Leslie M. Pittler, Esquire. The Petitioners seek approval of a commercial loading/service area in residential and R.O. zones and commercial parking in residential and R.O. zones, pursuant to Section 409.8.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), and variance relief from the B.C.Z.R. as follows: 1) From Section 409.8.a.4 to permit a parking setback of 7 feet in lieu of the required 10 feet; from Section 232.1 to permit a front setback of 0 feet in lieu of the required 10 feet; from Section 232.3 to permit a rear setback of 12 feet in lieu of the required 20 feet; from Section 232.2 (See 1B01.2.C.1.a) to permit a side setback of 0 feet in lieu of the required 20 feet; from Section 409.6.A.2 to permit 45 parking spaces in lieu of the required 51; and, from Section 1B01.1.B.e to permit a 10-foot buffer in a residential transition area in lieu of the required 50 feet. The subject property and relief sought are more particularly described on the red-lined site plan submitted into evidence as Petitioner's Exhibit 4.

Appearing at the hearing on behalf of the Petitions were Donna M. Deerin, a representative of Blackford Development LTD, co-Petitioner, Tom Woolfolk, Landscape Architect and project engineer with George W. Stephens, Jr. and Associates, Inc., who prepared the site plan for this property, Wes Guckert, traffic engineering expert, Bruce Hollingsworth, Architect, Lewis Hess, Laurie A. Mazzotta, and Leslie M. Pittler, Esquire, attorney for the Petitioners. Numerous individuals from the surrounding community appeared in opposition, all of whom signed the Protestant's Sign In Sheet. Among those who acted as spokespersons were Sharon McDowell, Ellen Kern and Duward E. Hart, on behalf of the Victory Villa Improvement Association, and Wanda Kod, on behalf of the Aero Acres Civic Improvement Association.

At the hearing, as a preliminary matter, Mr. Pittler amended the Petition for Variance by deleting two of the requests. Specifically, the variance seeking a 12-foot rear yard setback in lieu of the required 20 feet and the variance seeking approval of 45 parking spaces in lieu of the required 51 were deleted. Thus, there are but four variances now being requested, in addition to the special hearing relief.

Mr. Pittler also submitted a copy of his letter dated June 10, 1998 to Mr. Arnold "Pat" Keller, Director of the Office of Planning. That letter set forth a series of representations to which the Contract Purchaser/Developer will be bound. The items contained therein represent a series of what the Developer proffers are "concessions" to the neighbors who vehemently object to the proposed project. In this regard, it is to be noted that the items set forth in that letter will be incorporated as conditions to any relief granted herein. It is also to be noted that the size of the building will actually be 8,625 sq.ft., slightly larger than the 8,600 sq.ft. represented in Mr. Pittler's letter. Additionally, the

hours of operation will be from 8:00 AM to 9:30 PM as opposed to the 9:00 AM to 9:30 PM indicated under Item (i) of Mr. Pittler's letter.

Testifying in support of the project was Mr. Thomas Woolfolk, the landscape architect assigned to this project by George W. Stephens, Jr. and Associates. Mr. Woolfolk presented the site plan and generally described the subject property. As indicated above, the property is actually a compilation of three parcels which abut one another, the largest of which is located at the southwest corner of Martin Boulevard and Compass Road. The rear of the two other smaller parcels, which front on Fuselage Avenue, abut the side of the larger parcel. The three parcels contain an aggregate gross area of .99 acres, split zoned B.L., D.R. 10.5 and R.O. The predominant zoning is B.L. (.73 acres) with some D.R. 10.5 (.12 acres) and a portion of R.O. (.14 acres). As noted above, the larger of the three parcels is located immediately adjacent to Martin Boulevard and Compass Road. This parcel is owned by Goldentrae Development, Inc. and contains the B.L.-zoned portion of the site. At the present time, this parcel is unimproved. In fact, after the hearing, I conducted a site visit to the property and, as far as practical, walked the site. This portion of the lot is heavily wooded and undeveloped. Additionally, there appears a culvert, or some other type of drainage system on that part of the lot which abuts Martin Boulevard. Apparently, that portion of the property will contain the underground storm water management facility. The balance of the overall tract consists of two heretofore residentially used lots, known as 803 and 805 Fuselage Avenue. The property at 803 Fuselage Avenue is zoned D.R. 10.5 and is improved with an existing dwelling presently owned by Rutherford R. and Johanna Dawson. The second lot, known as 805 Fuselage Avenue, is zoned R.O. and is improved with a structure, which at

the time of my site visit, was being used as a doctor's office. This lot is owned by Marvin J. and Elma K. Rombro.

The Contract Purchaser proposes to develop the combined parcels with an 8,625 sq.ft. CVS/Pharmacy store, utilizing the smaller lots for parking. As a result of a great many negotiations and discussions, the store will be oriented towards Compass Road, and vehicular access to the parking lot which serves same will be by way of two curb cuts from that road. There will not be any vehicular access to the site from either Fuselage Avenue or Martin Boulevard. Mr. Woolfolk testified at length about the proposed project and the relief requested within the Petitions for Special Hearing and Variance. He indicated that the site featured a number of constraints which limited development possibilities. As I observed in the field, the site has a significant grade and rises from Martin Boulevard. Additionally, the topography of the land is uneven. Moreover, the rear of the site when viewed from Compass Road, abuts a number of residences in the Victory Villa subdivision. Obviously, these residents oppose the project, fearing a commercial intrusion onto their residential properties.

Also testifying on behalf of the Petitioner was Bruce Hollingsworth, an Architect. He described the proposed structure and CVS' attempt to design same so that it would blend with the surrounding residential community. He also indicated that there would be no external sound system and that lighting of the site will be directed towards the building and downward. In this regard, it is to be noted that the site plan shows a drive-thru window towards the rear of the proposed building. As shown on the plan, the Petitioners designed a stacking lane and by-pass lane to the rear of the site, between the property's boundary and the rear building

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line of the store. This will enable customers to pick up prescriptions without leaving their vehicles.

Extensive testimony was also received from Wes Guckert, a traffic engineer. Mr. Guckert testified extensively about traffic patterns and conditions in the area. In sum, he opined that the proposed use will not be detrimental to the surrounding locale and will not unduly cause congestion in the road system. My site visit was also helpful in examining the traffic issues. As noted above, both vehicular entrances will be from Compass Road with no access from either Martin Boulevard or Fuselage Avenue. Additionally, the intersection of Martin Boulevard and Compass Road is signalized thereby regulating traffic at that location. Moreover, the intersection of Compass Road and Fuselage Avenue is regulated by a four-way stop sign. In my judgment, this light and the stop sign system adequately control traffic so as to allow safe access/egress to and from the site.

In addition to the testimony offered by the Petitioners, there was significant testimony and evidence presented by the Protestants. On behalf of the Victory Villa Improvement Association, Duward E. Hart testified and presented a written statement summarizing his association's concerns. Primarily, the community is concerned about an overcrowding of the site with a building that is too large for the property, and an adverse impact on traffic patterns in the area. Testimony was also received from Ellen Kern, a nearby resident. She is also concerned about traffic, environmental pollution, and nuisance effects incidental to the conducting of business on this property. Sharon McDowell also testified in opposition to the request. In addition to the concerns expressed by the other

witnesses, Ms. McDowell also fears a potential increase in crime occasioned by the location of the proposed store.

The above recitation is but a summary of the testimony and evidence offered. There were numerous documentary exhibits submitted which have been considered by this Zoning Commissioner. Additionally, I conducted a site visit to the property as noted above. I found this site visit of great assistance in evaluating the relief sought in this case.

In considering the issues before me, I think it of significant note that the lion's share of the property is zoned B.L. The B.L. zoning classification stands for Business Local and is a classification which is assigned by the County Council to promote business. Thus, the nature of the proposed use is entirely consistent with the property's zoning classification. That is, the County Council has determined that this property should be zoned B.L. and, by placing that classification on this site, has recognized that the subject property is an appropriate location for business activity. In my judgment, this zoning is altogether appropriate, particularly in view of surrounding land uses. Admittedly, the property does back up to the residences in Victory Villa. However, all four of the corners adjacent to the intersection of Martin Boulevard and Compass Road are business-oriented. Immediately across Compass Road from the subject site is a service station and what appears to be an abandoned convenience store. On the other side of the site across Martin Boulevard is a County Recreation and Parks' office. Caddie-corner from this intersection is a shopping center and another gas station. Clearly, the parcels of land which surround this intersection are all business/commercial/non-residential in character. Thus, it is of particular note that the matter before me is not a Petition for Special Exception where I must consider the pro-

priety of a proposed use. The use suggested here is permitted by right, a fact that some of the Protestants apparently do not grasp. The issue before me is whether the site can be developed in the manner proposed, with the relief needed under the Petitions for Special Hearing and Variance.

Notwithstanding the zoning of the predominant portion of the property, however, I am appreciative of the Protestants' concerns. Indeed, the property is within close proximity to a residential neighborhood, as the rear property line abuts many houses which front Box Circle in the Victory Villa subdivision. Moreover, there are residences directly across Fuselage Avenue and the site does call for the removal of two buildings which at one time were used for residential purposes. As noted above, the lot owned by Mr. & Mrs. Rombro now used as a doctor's office will be converted into a parking area as will the adjacent lot on which a dwelling presently owned by Mr. & Mrs. Dawson is located. The use of these two properties in the development of the site must be monitored closely to prohibit adverse impact on the surrounding residences.

In considering the variances requested, I am persuaded that the relief requested should be granted. In this regard, I must be guided by the requirements of Section 307 of the B.C.Z.R. as construed by the case law (See Cromwell v. Ward, 102 Md. App. 691 (1995)). That authority requires me to make a finding that the property is unique in order for variance relief to be granted. In my judgment, such a finding is easily reached. The uniqueness of this property is derived from its configuration and topography. As Mr. Woolfolk noted, the constraints associated with the development of this property are difficult. The site is particularly difficult to develop in that it tapers to its narrowest width at the cen-

ter of the site as same is viewed from Compass Road. This makes locating improvements difficult and generates much of the variance relief sought.

Additionally, I find that practical difficulty would be suffered by the Petitioners if relief were denied. To deny the variances requested would prohibit development of the property with a permitted purpose (i.e., business use). Lastly, I find that there will not be adverse impact on surrounding properties, assuming that certain restrictions are imposed. For these reasons, the variances will be granted.

As to the Petition for Special Hearing, I likewise will grant same. Development of the property would not be possible without providing sufficient parking. Even the Protestants would concede that customers of the store should park on the subject site and there should not be a spill over into their community. Thus, permitting a portion of the parking lot in a residential zone is appropriate. Moreover, the commercial loading/service area in a residential zone is acceptable. In this regard, it was indicated that deliveries will be made to the side/rear of the building at an entrance more particularly shown on the site plan. This entrance falls within the portion of the property zoned D.R. 10.5.

Therefore, upon due consideration of the testimony and evidence presented, the Petitions for Special Hearing and Variance (as amended) will be granted. In this regard, I shall incorporate the amended red-lined site plan marked as Petitioner's Exhibit 4. Additionally, pursuant to the authority conferred upon me by the Baltimore County Code and the B.C.Z.R., certain conditions and restrictions shall be added. As noted above, the terms and conditions set forth in Mr. Pittler's letter of June 10, 1998 shall be attached as conditions precedent to the relief granted. As noted above, those terms and provisions are specifically incorporated herein,

except as to the amendment of the square footage of the proposed building to 8625 sq.ft. instead of 8600 sq.ft. and the hours of operation limited to from 8:00 AM to 9:30 PM.

As an additional condition/restriction, I shall require the elimination of the drive-thru lane. In my judgment, the existence of the drive-thru window would be the single biggest negative impact upon the community and would be inappropriate here. I explain. The building is sited on the property so as to be close to Compass Road, immediately behind an area of landscaping and sidewalk adjacent to the road right-of-way. The proposed drive-thru lane is located in the rear of the property, between the CVS/Pharmacy building and the rear property line shared with a number of residences which are part of the Victory Villa subdivision. Although I applaud the Petitioners' efforts to reduce that impact by the installation of fencing and landscaping, I believe that the existence of traffic to the rear of the site immediately adjacent to the rear property line will cause adverse impacts to the residents who reside to the rear which cannot be mitigated. Although there will not be an outside sound system, there will be noises associated with customer pick-up and automobile traffic immediately adjacent to these residences. Moreover, there would be disruption caused by headlights and other increased lighting in that area. In my judgment, such a condition is unacceptable and will not be allowed. Therefore, although I approve the amended plan submitted, I will restrict the relief so as to require compliance with the terms and conditions outlined in Mr. Pittler's letter to Mr. Keller, as well as an elimination of the drive-thru lane. The rear of the site can contain a macadam area to allow for proper traffic circulation; however, that rear area should be nothing

more than a drive aisle. Any reduction of the macadam surface in that area can more properly be used for screening purposes.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of July, 1998 that the Petition for Special Hearing seeking approval of a commercial loading/service in residential and R.O. zones and commercial parking in residential and R.O. zones, pursuant to Section 409.8.B.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 4, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance (as modified herein) seeking relief from the B.C.Z.R. as follows: From Section 409.8.a.4 to permit a parking setback of 7 feet in lieu of the required 10 feet; from Section 232.1 to permit a front setback of 0 feet in lieu of the required 10 feet; from Section 232.2 (See 1B01.2.C.1.a) to permit a side setback of 0 feet in lieu of the required 20 feet; and, from Section 1B01.1.B.e to permit a 10-foot buffer in a residential transition area in lieu of the required 50 feet, in accordance with Petitioner's Exhibit 4, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

- 2) Compliance with the terms and conditions set forth in Mr. Pittler's letter of June 10, 1998, a copy of which is attached hereto and made a part hereof. As noted above, those terms and provisions are specifically incorporated herein, except as to the increase in the size of the proposed building from 8600 sq.ft. to

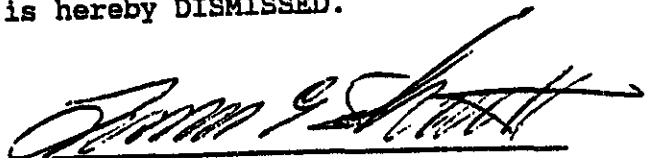
8625 sq.ft. and the hours of operation will be from 8:00 AM to 9:30 PM.

3) Development of the site is subject to the development review regulations and process set forth in Title 26 of the Baltimore County Code. (i.e., compliance with the Zoning Plans Advisory Committee comments submitted by the Office of Planning, dated June 10, 1998), a copy of which is attached hereto.

4) The drive-thru lane to the rear of the property shall be eliminated. The rear of the site can contain a macadam area to allow for proper traffic circulation; however, that area should be nothing more than a drive aisle. Any reduction of the macadam surface in that area can more properly be used for screening efforts.

5) When applying for a building permit, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 232.3 to permit a rear setback of 12 feet in lieu of the required 20 feet and from Section 409.6.A.2 to permit 45 parking spaces in lieu of the required 51, be and is hereby DISMISSED.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

IN RE: PETITIONS FOR SPECIAL HEARING * BEFORE THE
AND VARIANCE - SW/Corner Martin *
Boulevard and Compass Road * ZONING COMMISSIONER
15th Election District *
6th Councilmanic District * OF BALTIMORE COUNTY

Goldentree Develop., Inc., et al * Case No. 98-384-SPHA
Richard Welkowitz/Blackford Dev.
Petitioners/Contract Purchaser*

* * * * *

ORDER ON THE MOTION FOR RECONSIDERATION

WHEREAS, this matter came before the Zoning Commissioner for consideration of Petitions for Special Hearing and Variance filed by Richard Welkowitz, on behalf of Blackford Development LTD, the Contract Purchaser, and by the owners of the subject and adjoining properties, namely Goldentree Development, Inc., Rutherford R. and Johanna Dawson, and Marvin J. and Elma K. Rombro, through their attorney, Leslie M. Pittler, Esquire, seeking special hearing and variance relief for the proposed development of the subject site with a CVS Pharmacy, including a drive-thru facility, in accordance with the site plan submitted and marked into evidence as Petitioner's Exhibit 4.

At the public hearing held on June 16, 1998, numerous residents from the surrounding community appeared in opposition to the request, citing concerns over the size of the building and its perceived impact on traffic patterns in the area. As noted at the hearing, the proposed use is permitted by right on the subject property, primarily zoned B.L.

By Order dated July 22, 1998, the relief requested was granted, subject to certain terms and conditions, one of which required the elimination of the proposed drive-thru facility to the rear of the property.

Subsequent to the issuance of said Order, Counsel for the Petitioners filed a Motion for Reconsideration, by letter dated July 31, 1998, seeking approval of the relocation of the proposed drive-thru facility from

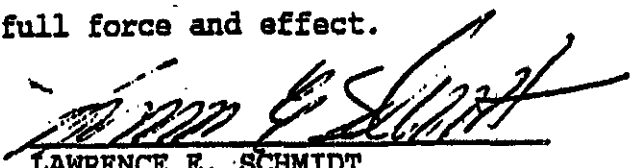
the rear of the property to the side facing Fuselage Avenue. A hearing on the Motion was scheduled for August 31, 1998 to afford all parties an opportunity to review and comment on the revised plan.

After due consideration of the revised site plan, I am persuaded to grant the Motion for Reconsideration and shall permit the proposed drive-thru facility to be located where shown on the revised site plan which has been marked as Petitioner's Exhibit 4A.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 31st day of August, 1998, that the Order issued July 22, 1998, be and the same is hereby AMENDED to GRANT a drive-thru facility on the subject property, in the location shown on Petitioner's Exhibit 4A, subject to the following restrictions:

- 1) The proposed drive-thru facility shall be oriented so that all cars waiting are facing Compass Road.
- 2) There shall be no outside speaker system.
- 3) The hours of operation for the proposed drive-thru facility shall be the same as those of the store itself namely, 8:00 AM to 9:30 PM.

IT IS FURTHER ORDERED that all other terms and conditions of the Order issued July 22, 1998 shall remain in full force and effect.


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Leslie M. Pittler, Esquire

24 West Susquehanna Ave., Towson, Md. 21204
Mr. Richard Welkowitz and Ms. Donna M. Deerin, Blackford Dev. LTD,
1891 Santa Barbara Dr., Suite 202, Lancaster, Pa. 17601
Mr. Thomas Woolfolk, G.W. Stephens, Jr. & Assoc., Inc.
658 Kenilworth Drive, Towson, Md. 21204
Mr. Bruce Hollingsworth, 129 Bonifant Road, Silver Spring, Md. 20901
Mr. Sharon McDowell, 801 Fuselage Avenue, Baltimore, Md. 21221
Ms. Ellen Kern, 28 Box Circle, Baltimore, Md. 21221
Mr. Duward E. Hart, 21 Stabilizer Drive, Baltimore, Md. 21220
Ms. Wanda Kod, 10 Left Aileron Drive, Baltimore, Md. 21220
Ms. Vivian Nawrocki, 714 Fuselage Avenue, Baltimore, Md. 21220
Copies also sent to: James Anderson, Jr., Betty Skidmore, Betty King, Sue Stone
Robert Wilson, Sr., and Laura Miller



